



MICHIGAN COURTS NEWS RELEASE

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FOR IMMEDIATE RELEASE

Michigan Supreme Court Oral Argument Cases Scheduled for November 4 and 5

LANSING, MI, October 27, 2015—The Michigan Supreme Court is scheduled to hear oral arguments November 4 and 5 on the sixth floor of the Michigan Hall of Justice beginning at 9:30 a.m. The cases involve a wrongful discharge claim, contract and tort claims, medical malpractice, criminal issues, felony conspiracy, and prevailing party attorney fees.

Oral arguments are open to the public. Links to the briefs and case summaries are available [here](#).

The Court broadcasts its oral arguments and other hearings [live](#) on the Internet via streaming video technology. Watch the stream live only while the Court is in session and on the bench. [Streaming](#) will begin shortly before the hearings start; audio will be muted until justices take the bench.

Please see the link to [Request and Notice for Film and Electronic Media Coverage of Court Proceedings](#).

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These brief accounts may not reflect the way that some or all of the Court's seven justices view the cases. The attorneys may also disagree about the facts, issues, procedural history, and significance of these cases. For further details about the cases, please contact the attorneys.

Michigan Supreme Court Oral Arguments November 4, 2015

Morning Session

Docket # [149663](#)

ROBERTO LANDIN,
Plaintiff-Appellee,

Mandel I. Allweil

v (Appeal from Ct of Appeals)
(Saginaw – Boes, J.)

HEALTHSOURCE SAGINAW, INC.,
Defendant-Appellant.

Richard W. Warren

Plaintiff Roberto Landin, a licensed practical nurse, was fired from his job at the defendant community hospital. Landin sued for wrongful discharge in violation of public policy. He argued that he was fired because he complained to his supervisor about a coworker's negligence in

treating a patient, which he believed led directly to that patient's death. The hospital argued that Landin's claim should be dismissed. But the trial court ruled that the claim could proceed based on MCL 333.20176a of the Public Health Code, which prohibits a health facility from discharging an employee who in good faith reports the malpractice of a health professional. The Court of Appeals, in a published opinion, affirmed the judgment of the trial court. The issues to be addressed include whether Landin may maintain a wrongful discharge claim for violation of public policy under MCL 333.20176a(1)(a), and whether the Whistleblowers' Protection Act, MCL 15.361 *et seq*, provides the exclusive remedy for such a claim.

Docket # [149872-3/150042](#)

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

David A. McCreedy

v (Appeals from Ct of Appeals)
(Wayne –Morrow, B.)

SEAN HARRIS, WILLIAM LITTLE, NEVIN HUGHES,
Defendants-Appellants

Steven F. Fishman
John P. Goldpaugh

While investigating the alleged use of excessive force by defendant Officer Hughes, the Detroit Police Department interviewed each of the three defendants. Before the interviews, the defendants were informed that any statements that they made during the investigation could not be used against them in "any subsequent criminal proceeding." They also signed a reservation of rights form setting forth their expectation that their statements would not be used against them in "any subsequent proceedings other than disciplinary proceedings" The defendants then gave statements denying that Hughes used excessive force. After a video surfaced that established that their statements were not truthful, they were charged with obstruction of justice. The defendants argued that the charges should be dismissed but, in a split published opinion, the Court of Appeals ruled otherwise. The Supreme Court will consider whether the Disclosures by Law Enforcement Officers Act, MCL 15.391, *et seq.*, precludes the use of false statements by a law enforcement officer in a prosecution for obstruction of justice. The Court will also consider whether, in light of the forms signed by the defendants, the use of their statements in a criminal prosecution would violate their state or federal right against self-incrimination.

Docket # [150371](#)

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellant,

Charles F. Justian

v (Appeal from Ct of Appeals)
(Muskegon – Hicks, T.)

CHARLES ALMANDO-MAURICE DUNBAR,
Defendant-Appellee.

Michael L. Oakes

Defendant Charles Almando-Maurice Dunbar's vehicle was stopped by sheriff's deputies on the basis of an obstructed license plate. After the stop, the deputies found cocaine, marijuana, and a handgun in the vehicle. Dunbar moved to suppress the evidence on the ground that the traffic stop violated his Fourth Amendment rights. The trial court denied the motion. The Court of Appeals reversed the trial court's order in a split published opinion. At issue is whether the

license plate affixed to Dunbar's vehicle, which was obstructed by a towing ball, violated MCL 257.225(2), thereby permitting law enforcement officers to conduct a traffic stop.

Afternoon Session

Docket # [149536](#)

DAVID ABBO, COLORADO TOYZ, INC.,
and WIRELESS PHONES, LLC,
Plaintiffs-Appellees,

John Hermann
Mark R. Granzotto

v (Appeal from Ct of Appeals)
(Oakland – Kumar, S.)

WIRELESS TOYZ FRANCHISE, LLC,
JOE BARBAT, RICHARD SIMTOB,
JSB ENTERPRIZES, INC., and JACK
BARBAT,
Defendants-Appellants.

Brian G. Shannon

Plaintiff David Abbo invested in a Wireless Toyz franchise. When the franchise's performance and profitability did not meet with his expectations, Abbo sued Wireless Toyz and the other defendants. Abbo filed a nine count complaint raising both contract and tort claims. A jury ruled in Abbo's favor on only his "silent fraud" claim, essentially finding that the defendants failed to disclose material facts about the franchise with the intent of defrauding Abbo. The trial judge retired soon after the trial, and the successor judge granted the defendants' motion for judgment notwithstanding the verdict. The judge concluded that the parties' agreements precluded, as a matter of law, Abbo's claim for silent fraud, that the evidence did not support such a claim, and that Abbo failed to establish the element of reliance. The Court of Appeals reversed in an unpublished opinion, and reinstated the jury verdict. The issues to be considered include whether the trial court erred in granting the defendants' motion for judgment notwithstanding the verdict on the silent fraud claim.

Docket # [149917](#)

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

Timothy Baughman

v (Appeal from Ct of Appeals)
(Wayne – Callahan, J.)

JOHN OLIVER WOOTEN,
Dunne
Defendant-Appellant.

Kristina Larson

Defendant John Oliver Wooten was charged in connection with an early-morning shooting at a strip club; one shooting victim died and another was seriously injured. At trial, the prosecution asked a police witness a question about Wooten's failure to come forward after the shooting to explain his claim of self-defense. Defense counsel objected and moved for a mistrial. The trial court granted the motion without prejudice to Wooten being tried a second time. When he was retried, Wooten was convicted by a jury of second-degree murder, assault with intent to murder, and firearms charges. The Court of Appeals affirmed in an unpublished opinion. It rejected

Wooten's claim that his retrial was barred by double jeopardy because the prosecution had intentionally goaded the defense into moving for a mistrial. The issues to be considered include: (1) whether the prosecution is permitted, during its case-in-chief, to elicit testimony from a police witness regarding the defendant's pre-arrest silence or failure to come forward to explain a claim of self-defense; (2) whether such evidence is admissible as substantive evidence of the defendant's guilt, or as impeachment of the defendant's anticipated defense theory; and (3) if such evidence is inadmissible, whether the trial court clearly erred in finding that the trial prosecutor did not intentionally goad the defense into moving for a mistrial, and whether the trial court erred in granting a mistrial, but allowing the defendant to be retried.

Thursday, November 5, 2015

Morning Session

Docket # [149989](#)

WYANDOTTE ELECTRICAL SUPPLY,
Plaintiff-Appellee,

John D. Pirich
Brian T. Quinn

v (Appeal from Ct of Appeals)
(Wayne – Colombo, R.)

ELECTRICAL TECHNOLOGY SYSTEMS, INC.,
Defendant/Cross-Defendant
and

KEO & ASSOCIATES, INC.,
Defendant/Cross-Plaintiff-Appellant,
and

Anthony Vittiglio, II

WESTFIELD INSURANCE COMPANY,
Defendant-Appellant.

Defendant KEO was the principal contractor on a public works construction project. As required by statute, KEO obtained a payment bond from defendant Westfield Insurance Company to protect laborers and suppliers who worked on the project. KEO contracted with Electrical Technology Systems (ETS) for electrical supplies and material for the project. ETS subcontracted with plaintiff Wyandotte Electric for electrical supplies. Wyandotte provided the supplies, but was not paid by ETS. Wyandotte then filed a claim against the bond. KEO and Westfield argued that Wyandotte was not entitled to recover against the bond, arguing, among other things, that Wyandotte did not properly give notice and that it did not properly calculate its claim. The circuit court ruled in Wyandotte's favor and the Court of Appeals affirmed in an unpublished opinion. The issues to be addressed include whether Wyandotte served on the principal contractor the 30-day notice within the meaning of MCL 129.207, whether Wyandotte is entitled to damages, if any, that include a time-price differential and attorney fees, and whether MCL 600.6013(7)'s provision for post-judgment interest applies to the judgment.

Docket # [150146](#)

PEOPLE OF THE STATE OF MICHIGAN
Plaintiff-Appellant,

Bruce H. Edwards

v (Appeal from Ct of Appeals)
(Wayne – Braxton, M.)

PAUL CHARLES SEEWALD,
Defendant-Appellee.

Keith W. Madden

Defendant Paul Seewald, formerly the district director for U.S. Representative Thaddeus McCotter, was convicted of election-law violations after he falsely signed and submitted nominating petitions in connection with McCotter’s 2012 bid for re-election. Seewald pled guilty to nine misdemeanor counts of signing a nominating petition with a name other than his own, and was sentenced to two years’ probation. In addition to the misdemeanor counts, Seewald was also charged with the felony of conspiracy “to commit a legal act in an illegal manner,” MCL 750.157a(d). He challenged the conspiracy charge, arguing that there was no “legal act” involved. The circuit court judge agreed and dismissed the charge; the Court of Appeals affirmed in a split unpublished per curiam opinion. At issue is whether Seewald committed a legal act in an illegal manner, in violation of MCL 750.157a(d).

Docket # [149955](#)

JEFFREY CULLUM,
Plaintiff-Appellee,

Jeffrey T. Stewart

v (Appeal from Ct of Appeals)
(Wayne – McDonald, K.)

FREDERICK L. LOPATIN, D.O.,
Defendant-Appellant,
and

Robert G. Kamanec

DEARBORN EAR, NOSE, AND THROAT
CLINIC, P.C.,
Defendant.

Plaintiff Jeffrey Cullum filed a medical malpractice lawsuit, alleging that defendant Dr. Lopatin negligently prescribed steroids, and that the steroids caused Cullum to develop avascular necrosis of his right hip. The trial court granted Dr. Lopatin’s motion for summary disposition, concluding that Cullum’s expert witness, Dr. McKee, offered opinions regarding causation that were speculative and unsupported. The Court of Appeals reversed in an unpublished opinion, concluding that Dr. McKee’s testimony was admissible under MRE 702 and that it was sufficient to create an issue of fact as to causation. The issues to be considered include whether the trial court was required to consider all of the factors outlined in MCL 600.2955(1); whether the trial court abused its discretion in holding that Dr. McKee’s opinion was inadmissible under MRE 702 because it was based on speculation; and whether the Court of Appeals applied the correct standard of review.

Afternoon Session

Docket # [150029](#)

RONNISCH CONSTRUCTION GROUP, INC.,
Plaintiff-Appellee,

Mark D. Sassak

v (Appeal from Ct of Appeals)
(Oakland – Kumar, S.)

LOFTS ON THE NINE, LLC,
Defendant-Appellant,
and

Ronald L. Cornell, Jr.

LOFTS ON THE NINE CONDOMINIUM
ASSOCIATION, HOTLINE ELECTRIC, INC.,
RAM CONSTRUCTION SERVICES OF
MICHIGAN, INC., EAM ENGINEERS, INC.,
MICHIGAN AIR PRODUCTS CO., STOCK
BUILDING SUPPLY, L.L.C., WILLIAMS
DISTRIBUTING CO., NORTH STAR
PARTNERS, L.L.C., and THE STATE BANK,
Defendants.

Defendant Lofts on the Nine contracted with plaintiff Ronnisch Construction Group to build a condominium building. When the project was completed, Ronnisch filed a lien pursuant to the Construction Lien Act (CLA), contending that it had not been paid in full. Ronnisch then sued, alleging breach of contract, foreclosure of lien, and unjust enrichment. As required by the parties' contract, the contract claim was submitted to arbitration, which ended with a judgment in Ronnisch's favor. Lofts on the Nine paid the judgment. Ronnisch sought attorney fees under the CLA, but the circuit court held that Ronnisch was not a "prevailing lien claimant," and the court did not have authority to award attorney fees under the CLA. In a published opinion, the Court of Appeals reversed this ruling. At issue is whether Ronnisch was entitled to an award of attorney fees as a "prevailing party" under MCL 570.1118(2) of the CLA, when it prevailed in binding arbitration on its contract claim, but neither the arbitrator nor the circuit court resolved its foreclosure of lien claim.